

**MINUTES
CITY PLANNING COMMISSION
J. MARTIN GRIESEL CONFERENCE ROOM
TWO CENTENNIAL PLAZA – SUITE 700
805 CENTRAL AVENUE**

**MAY 21, 2004
9:00 A.M.**

PRESENT

Appointed Members: Donald Mooney, Jr., Terry Hankner, Jacquelyn McCray, Valerie Lemmie
and James Tarbell

Community Development & Planning Staff: Margaret Wuerstle, Felix Bere, and Virginia Vornhagen

Law Department: Dotty Carman

CALL TO ORDER:

Meeting was called to order.

MINUTES OF MAY 7, 2004

Vote on approval of the minutes of the May 7, 2004 meeting.

Motion to Approve:	Ms. V. Lemmie
Second:	Mr. D. Mooney
Vote:	All ayes (5-0) motion carries.

Extra material passed out for Item #3 (Felix Bere, Staff Planner).

CONSENT ITEMS

On Item #3 the Planning Commission received a letter from the Oakley Community Council requesting that the CPC table the discussion until the next meeting. Mr. Mooney would like to table this item because Mr. Kraus and the Oakley neighborhood have asked that they be given the opportunity to review the file and appear before the Planning Commission. Mr. Mooney asked if there was a consensus to table this item until the next meeting? All agreed Item #3 was tabled until the next meeting. Mr. Mooney apologized for getting the items out of order.

ITEM #1 ORDINANCE – Sale and Exchange of Property on Calvert Street, Ridge & Alamo Avenues with Vandercar.

Mr. Bere will present for Rodney Ringer, who was unable to attend.

Mr. Davin, who represents Vandercar, (**Item #1 -- exchange of property** on Calvert Street) was prepared to make a presentation regarding the land swap with the City. Commissioners were familiar with the “Steak and Shake” item and Mr. Mooney asked for a quick overview. The applicant is giving right-of-way to the City (pointed out areas). An appraisal was completed and based on square footage the applicant owed the City \$7,000, which has been paid. The applicant indicated that he had met with the Oakley Community Council and they wrote a letter of their support. Ms. Hankner said we have received no comments in opposition to this item. Mr. Davin then took a seat and stayed for the remainder of the meeting.

Motion to Approve: Ms. V. Lemmie
Second: Ms. J. McCray
Vote: All ayes (5-0) motion carries.

ITEM #2 ORDINANCE – Authorizing Grant of Easements in Favor of Property Owned by Waste Management of Ohio, Inc.

No one from the public was present for item #2. **Easements** on property owned by Waste Management Co. of Ohio, Inc. (Item #2) had been thoroughly reviewed by each member of the Commission prior to the meeting.

Motion to Approve: Ms. T. Hankner
Second: Ms. J. McCray
Vote: All ayes (5-0) motion carries.

DISCUSSION

ITEM #3 was a request to remodel an existing building. Mr. Mooney asked if the CPC had to approve this because it is zoned PD now? Ms. Wuerstle explained that because the project was in a PD it needs to come before the Planning Commission, to make sure it is consistent with the standards within that PD.

Mr. Bere (Staff Planner) wanted clarification on Item #3 to verify if it would be tabled until the June 4th meeting. Mr. Mooney agreed because people who normally want to participate in these types of discussions didn't get enough notice. Therefore, they couldn't be at the meeting. The Oakley Community Council and Mr. Kraus (representing a number of groups) both requested that this item be held until the June 4th meeting. Ms. Wuerstle and Ms. Carman asked that the issue of the noticing requirements be discussed later. Ms. Lemmie agreed to postpone the discussion until later.

Mr. Green, partner on the property for Item #3, asked if the appropriate paperwork had not been submitted on time. Mr. Mooney could not respond to that question. Per Mr. Bere, Mr. Green and his company followed all requirements. If this had been a zone change we would have sent notices for Staff conferences. In the future, we might want to provide additional notice to the community. As it was, we were not required to send out notices. Mr. Mooney suggested that when we do a planned development we handle it just like a zone change and send out an advance notice to the Community Council.

Mr. Mooney questioned why we are reviewing this item. Ms. Wuerstle explained that because it is in a PD it needs to come before the Planning Commission for review to make sure that it is consistent with the standards for that PD. Mr. Mooney remarked that they may not have much power to say no, but normally we try to give Community Councils a chance to be heard on subjects that come before the Commission. Ms. Wuerstle said that we wanted to have a discussion afterwards on whether we should make some changes to the zoning code that would require us to notice property owners, like we do with the zone change. Right now that is not a requirement. Ms. Lemmie asked that indeed we hold off on the discussion. Mr. Mooney was curious as to why we did not send a notice out and wondered if it could be one of the new "wrinkles" in our new zoning code that we are trying to getting used to. Mr. Bere noted that the Community Council wanted to discuss, not necessarily to oppose, this item. Mr. Mooney read the letter from Mr. Kraus out loud as requested by Ms. Hankner.

Mr. Daryl Green, partner on the 4914 Ridge Avenue remodel (Item #3), was prepared with architect's renderings of the façade of the building formerly, and at present. He also presented site drawings of the location of the building in relation to the neighborhood. Mr. Green remarked that he was prepared to review the progress of the remodel in order to have the Planning Commission give their okay today. He felt this would be possible because no one would want to have an old HVAC or mechanical contracting building (with about 120 trucks coming and going) instead of a respectable retail establishment. Mr. Green

said, “our business is small and we want to invest in the City and do not want a delay. We had followed City requirements and hoped to be open in January. They found out about the zoning code change, then a transitional phase, and went from planning on being operational in February to looking at opening in winter. For an auto facility that would kill the project.”

Mr. Mooney felt the issue was more to give the other people, who are concerned, for whatever reasons, a chance to be heard and stated that the CPC normally tries to do that. This does not reflect on you. Regardless, Mr. Green was not happy about the delay; a good momentum had been achieved in clearing up the property to prepare it for remodeling. Mr. Green also mentioned that this meeting date was his 10-year wedding anniversary and he had postponed an anniversary trip in order to attend. Ms. Lemmie mentioned that more than one group wanted to be heard.

Mr. Green stated the past and future of the project. Mr. Mooney told Mr. Green that Mr. Kraus, attorney for the adjoining property owner, was out of town and could not attend this meeting but would be available for the June 4, 2004 meeting. A delay of this item to that time would give both sides a chance to present and discuss this issue. Mr. Green said he was not happy with a delay of 30 days just because today was inconvenient for Mr. Kraus. Ms. Carman (City attorney) corrected him in that it was only two weeks. Mr. Green brought to the attention of the Commission members that he followed due diligence in abiding by the guidelines outlined by the City and now because of Mr. Kraus’ absence he was being penalized.

Mr. Gene Zenni, of Cincinnati Realty Co. located at 4960 Ridge Ave., presented himself, as owner of the abutting property Ridgehouse Apartments for 30 years. He was attending this meeting without his lawyer, Mr. Kraus. He had only been notified last Friday of this meeting and his lawyer’s calendar was already filled to capacity. Therefore, the lawyer could not attend. He indicated he was not sure they would be against the project, but they had reservations. He would like to have time to consider the situation. He did not want to go into too much detail but felt there were quite a few items that needed particular attention, i.e., neon lights, signage, etc. And noted he felt this was not a particularly “retail” remodel, but rather a car dealership/repair building which would include a lot of traffic. Project architect, Mr. Streicher of AIA, said that as part of the mission statement there would be no work done on automobiles. Mr. Streicher said that most of the conversations had been with the City representative Steve Briggs and later Felix came on board. Felix mentioned that the developer still needed a building permit which would probably take two weeks. One clarification, if there was any zoning change it was because of the adoption of the new Zoning Code. It used to be B4, it was changed to R5T with B3 uses. What we are talking about is conditional uses, because if it was still B4 then they could set up any automotive usage. Therefore, this upscale use is not too much of a stretch. The developer should not be deprived because it is now a PD. Mr. Mooney said it sounds as if the developer had a good argument for what they were proposing.

Mr. Zenni requested the Planning Commissioners delay the issue until the June 4th meeting at which time a full discussion could be held. Mr. Mooney suggested the two owners get together and include the surrounding community members to discuss some of these issues which could then quickly be resolved before the June 4th Commission meeting at which time a decision could be made. Ms. Lemmie agreed with Mr. Mooney in that the surrounding community members should have input on this change. Mr. Green told the Commissioners that because of this delay he would probably have reservations about dealing with the City in the future. He also felt his planned “day in court” was being ignored. Mr. Mooney apologized, but reiterated that the two-week period would go by quickly. Mr. Mooney thanked Mr. Green for his time and wished him a happy wedding anniversary. Ms. Lemmie reiterated their proposal to notify the community. She agreed that this was an inconvenient glitch in the system that may delay the development; however, the CPC was not going to change its mind.

Mr. Mooney asked for a motion to table this item until the June 4, 2004 meeting to which all commissioners agreed. Ms. Hankner seconded the motion.

After Mr. Zenni and Mr. Green left the Greisel Room, Ms. Wuerstle said there are regulations in the zoning codes, that when there is a zone code change we must notify neighbors within so many feet. Just for the record, that was not required for Item #3. The proper notices were sent for Item #3. Ms. Carman and Ms. Wuerstle wanted to talk to the CPC about possibly making some changes to the zoning code, where we would notify the surrounding property owners. Ms. Lemmie remarked that they were sympathetic and requested they proceed with making the changes. Ms. Wuerstle suggested that planned development changes would also require notifying the surrounding property owners as we do for zone code changes. Ms. Carman said that would be for final development plans within PD districts. Currently when property is re-zoned to planned development you have both concept plans and a zoning change. The final development plan, and that's the issue at stake, normally does not require notification and involvement by the community.

Ms. McCray wanted an explanation on what happened in this instance. Mr. Mooney said they found out about it last Friday. Mr. Bere said they submitted their obligation packet on "fast track" 21 days before the meeting. Ms. Carman said, "I believe that the standard notice was given (in that they were mailed out) and they were given the required week notice, but we should look at giving more time. Ms. McCray said that was a good explanation and she understood. Felix said these should be handled in a similar fashion to zone changes so the community could have input. Ms. Hankner suggested that should be instituted now; to provide about three weeks instead of one week. Is that the result we are talking about? Ms. Wuerstle indicated that we needed to give the neighborhood a longer time. Ms. Hankner wanted to know how much time. Ms. Wuerstle said about 14 days and that staff would write a proposal and bring it to CPC for discussion. Ms. Lemmie asked to have it sent to CPC members via e-mail so they could review it prior to discussion. Mr. Mooney felt a vote was not required, just go ahead prepare it and give us time to review it.

OTHER BUSINESS

ADJOURNMENT

With no further business to consider, the meeting was adjourned.

Margaret A. Wuerstle, AICP
Chief Planner
Department of Community
Development & Planning

Date: _____

Donald Mooney, Chair
City Planning Commission

Date: _____

**** FOR ADDITIONAL INFORMATION ON ANY AGENDA ITEM, PLEASE CALL 357-2885 ****